

From: Sarah A. Zylstra
Sent: Wednesday, September 28, 2022 2:33 PM
To: Ingrisano, Jonathan
Cc: Tanner G. Jean-Louis; Noel Sterett; Wittenwyler, Mike; Knapp, Bruce
Subject: RE: EHS -- revised key word search [GK-Active.FID3018047]

Jonathan,

Your email demonstrates that even if the City agrees to perform three searches instead of one and goes through the time and trouble to review thousands of documents and tens of thousands of pages--all after discovery has closed--you still will not be satisfied. Your email only confirms that discovery conferences and disputes will likely continue into the future.

It was no small thing for the City's counsel to agree to review over 4,000 documents during the pre-trial period. It appears that running these searches will not be the end of the discovery disputes, but just the beginning. Therefore, we believe that we should just proceed to the hearing.

Sarah



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From: Ingrisano, Jonathan <jingrisa@gklaw.com>
Sent: Wednesday, September 28, 2022 2:04 PM
To: Sarah A. Zylstra <szylstra@boardmanclark.com>
Cc: Tanner G. Jean-Louis <TJeanLouis@boardmanclark.com>; Noel Sterett <nsterett@daltontomich.com>; Wittenwyler, Mike <mwittenw@gklaw.com>; Knapp, Bruce <BKnapp@gklaw.com>
Subject: RE: EHS -- revised key word search [GK-Active.FID3018047]

Sarah:

I will agree that these searches and resulting timely productions of documents will satisfy my motion and the Court's order. I should be free to follow-up on production issues, proper execution of the searches and potential technical glitches (which per the below have occurred in the past). And do you want to proactively address how you are going to

treat the recurring issue of privilege? You've waived as to some issues but not others. But otherwise, yes: I'm not going to come back at you with new or different custodians, time frames, or search terms.

But as to there not being "any more requests," generally? I expect that we will both be making requests of each other for stipulations and various cooperative actions as trial approaches. I don't think those requests are what you are trying to foreclose.

Jonathan Ingrisano | Attorney
414.287.9611 direct | jingrisa@gklaw.com



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From: Sarah A. Zylstra <szylstra@boardmanclark.com>

Sent: Wednesday, September 28, 2022 1:47 PM

To: Ingrisano, Jonathan <jingrisa@gklaw.com>

Cc: Tanner G. Jean-Louis <TJeanLouis@boardmanclark.com>; Noel Sterett <nsterett@daltontomich.com>; Wittenwyler, Mike <mwittenw@gklaw.com>; Knapp, Bruce <BKnapp@gklaw.com>

Subject: RE: EHS -- revised key word search [GK-Active.FID3018047]

[EXTERNAL] This message originated from outside your domain.

Jonathan,

Again to avoid doubt, we are agreeing to my email from 12:52 p.m. today, and we will not have to follow up on any more requests from you. We can agree to a rolling production. Confirm based on that, that we have an agreement and that I can notify the court to take the hearing off.



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From: Ingrisano, Jonathan <jingrisa@gklaw.com>

Sent: Wednesday, September 28, 2022 1:25 PM

To: Sarah A. Zylstra <szylstra@boardmanclark.com>

Cc: Tanner G. Jean-Louis <TJeanLouis@boardmanclark.com>; Noel Sterett <nsterett@daltontomich.com>; Wittenwyler, Mike <mwittenw@gklaw.com>; Knapp, Bruce <BKnapp@gklaw.com>

Subject: RE: EHS -- revised key word search [GK-Active.FID3018047]

Sarah:

You can hold that search on “permitted uses.” We can agree to proceed on the three searches as laid out below without that clarification.

Can the City agree to a reasonable rolling production ending on 10/21?

If we are in agreement, we can advise the Court to take the hearing off.

Jonathan Ingrisano | Attorney
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From: Ingrisano, Jonathan
Sent: Wednesday, September 28, 2022 1:08 PM
To: Sarah A. Zylstra <szylstra@boardmanclark.com>
Cc: Tanner G. Jean-Louis <TJeanLouis@boardmanclark.com>; Noel Sterett <nsterett@daltonmich.com>; Wittenwyler, Mike <mwittenw@gklaw.com>; Knapp, Bruce <bknapp@gklaw.com>
Subject: RE: EHS -- revised key word search [GK-Active.FID3018047]

Thanks, Sarah.

To be clear, the three searches you are referencing is a single search broken out to accommodate (a) the fact that the City has limited complex searching and (b) to allow easier assessment of the number of “hits” generated by the various parts of the search. I’m pretty confident that we can fashion this as a single search to accommodate such a restriction.

Have you de-duped these results against your prior production? This should reduce the number further.

I’m prepared to proceed with the searches if you can please provide guidance on one point. You raise a good question about “permitted” excluding “permitted uses.” To see the severity of that issue, if any, could you test:

(Edgewood OR EHS) AND “permitted uses” AND (light* OR field OR Goodman OR stadium OR electric* OR appli*)

I don’t think this will implicate a material number of documents.

Jonathan

Jonathan Ingrisano | Attorney
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From: Sarah A. Zylstra <szylstra@boardmanclark.com>
Sent: Wednesday, September 28, 2022 12:52 PM
To: Ingrisano, Jonathan <jingrisa@gklaw.com>
Cc: Tanner G. Jean-Louis <TJeanLouis@boardmanclark.com>; Noel Sterett <nsterett@daltonmich.com>; Wittenwyler,

Mike <mwittenw@gklaw.com>; Knapp, Bruce <BKnapp@gklaw.com>

Subject: RE: EHS -- revised key word search [GK-Active.FID3018047]

[EXTERNAL] This message originated from outside your domain.

Jonathan,

The City does believe the numbers are still too burdensome and believes you are not entitled to three searches. However, if you agree that the City's review and production of the three searches as described will resolve all of your discovery issues, the City is willing to perform these searches. To avoid doubt, the three searches are:

- 1). (Edgewood OR EHS) AND permit AND (light* OR field OR Goodman OR stadium OR electric* OR appli*) MINUS ("Edgewood Ave*" OR "Edgewood College" OR "Edgewood Campus School" OR "permitting" OR "permitted" OR "Edgewood Dr*")
- 2). "Edgewood* permit"
- 3). (Edgewood OR EHS) AND ("master plan" OR ordinance) MINUS ("Edgewood Ave*" OR "Edgewood College" OR "Edgewood Campus School" OR "Edgewood Dr*")

The City reserves its right to argue that the number of documents is still too burdensome and that you are not entitled to three searches if we must go forward with today's hearing. Please respond whether you are in agreement.



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From: Ingrisano, Jonathan <jingrisa@gklaw.com>

Sent: Wednesday, September 28, 2022 11:59 AM

To: Sarah A. Zylstra <szylstra@boardmanclark.com>

Cc: Tanner G. Jean-Louis <TJeanLouis@boardmanclark.com>; Noel Sterett <nsterett@daltontomich.com>; Wittenwyler, Mike <mwittenw@gklaw.com>; Knapp, Bruce <BKnapp@gklaw.com>

Subject: RE: EHS -- revised key word search [GK-Active.FID3018047]

Sarah:

It's a simple question, the answer to which you've volunteered repeatedly below in conjunction with other search results you've provided to date. Is it the City's position that 4,694 documents is still too high?

Jonathan

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From: Sarah A. Zylstra <szylstra@boardmanclark.com>

Sent: Wednesday, September 28, 2022 11:49 AM

To: Ingrisano, Jonathan <jingrisa@gklaw.com>

Cc: Tanner G. Jean-Louis <TJeanLouis@boardmanclark.com>; Noel Sterett <nsterett@daltontomich.com>; Wittenwyler, Mike <mwittenw@gklaw.com>; Knapp, Bruce <BKnapp@gklaw.com>

Subject: RE: EHS -- revised key word search [GK-Active.FID3018047]

[EXTERNAL] This message originated from outside your domain.

Sorry. A typo as I was typing fast.

The MINUS function will not exclude only false or irrelevant hits as we explained.



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From: Sarah A. Zylstra

Sent: Wednesday, September 28, 2022 11:45 AM

To: Ingrisano, Jonathan <jingrisa@gklaw.com>

Cc: Tanner G. Jean-Louis <TJeanLouis@boardmanclark.com>; Noel Sterett <nsterett@daltontomich.com>; Wittenwyler, Mike <mwittenw@gklaw.com>; Knapp, Bruce <BKnapp@gklaw.com>

Subject: RE: EHS -- revised key word search [GK-Active.FID3018047]

Jonathon,

I have been in back-to-back meetings since 8:30 this morning.

I don't understand your email. You have not indicated what you are proposing for the City to do. The three searches you suggested exclude relevant documents, which we understand that you do not want to do. The MINUS function will exclude false or irrelevant hits as we explained. As one case in point, excluding permitted will exclude permitted use documents.

Are you asking whether the City is willing to do one of these three searches anyway as your search and if so, which one? Please clarify whether you are proposing something and if so what exactly.

Sarah



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From: Ingrisano, Jonathan <jingrisa@gklaw.com>

Sent: Wednesday, September 28, 2022 8:37 AM

To: Sarah A. Zylstra <szylstra@boardmanclark.com>

Cc: Tanner G. Jean-Louis <TJeanLouis@boardmanclark.com>; Noel Sterett <nsterett@daltontomich.com>; Wittenwyler, Mike <mwittenw@gklaw.com>; Knapp, Bruce <BKnapp@gklaw.com>

Subject: RE: EHS -- revised key word search [GK-Active.FID3018047]

Sarah:

Thank you. What is the City's position?

Jonathan

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From: Sarah A. Zylstra <szylstra@boardmanclark.com>

Sent: Tuesday, September 27, 2022 3:16 PM

To: Ingrisano, Jonathan <jingrisa@gklaw.com>

Cc: Tanner G. Jean-Louis <TJeanLouis@boardmanclark.com>; Noel Sterett <nsterett@daltontomich.com>; Wittenwyler, Mike <mwittenw@gklaw.com>; Knapp, Bruce <BKnapp@gklaw.com>

Subject: RE: EHS -- revised key word search [GK-Active.FID3018047]

[EXTERNAL] This message originated from outside your domain.

Jonathon,

We have run the searches. We then tested your hypothesis that a record that contained all the search terms but also included an excluded term (like permitted or Edgewood Avenue for example) would remain in the review/production

set. Unfortunately, it does not. Applying the “MINUS” action will automatically exclude the record if it contains an excluded term (even if it meets the rest of the search criteria).

We did still run the searches. The totals for the 3 searches with families are:

1. 709 docs totaling 3,123
2. 69 docs totaling 569 pages
3. 4,576 docs totaling 14,056 pages

The total is 5,354 documents totaling 17,748 pages.

Eliminating records that fall in more than one of these 3 searches leaves a total of 4,694 documents totaling 15,760 pages.



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From: Ingrisano, Jonathan <jingrisa@gklaw.com>

Sent: Tuesday, September 27, 2022 10:08 AM

To: Sarah A. Zylstra <szylstra@boardmanclark.com>

Cc: Tanner G. Jean-Louis <TJeanLouis@boardmanclark.com>; Noel Sterett <nsterett@daltontomich.com>; Wittenwyler, Mike <mwittenw@gklaw.com>; Knapp, Bruce <BKnapp@gklaw.com>

Subject: RE: EHS -- revised key word search [GK-Active.FID3018047]

Sarah:

I'm sorry that my confusion and disagreement was interpreted as scorn. That was not my intention.

To clarify, you've run repeated searches because I repeatedly revised my proposed search criteria to find compromise and to allow you to test the search results. To no avail.

EHS and the City both produced their documents as searchable image files. Neither produced metadata. Thank you for clarifying that my client and my firm did not affirmatively remove metadata nor did it otherwise act improperly with respect to our documents.

I will proceed with the understanding that your search criteria remains as it did on September 14.

Thank you.

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414.287.9611 direct | jingrisa@gklaw.com



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From: Sarah A. Zylstra <szylstra@boardmanclark.com>

Sent: Tuesday, September 27, 2022 9:50 AM

To: Ingrisano, Jonathan <jingrisa@gklaw.com>

Cc: Tanner G. Jean-Louis <TJeanLouis@boardmanclark.com>; Noel Sterett <nsterett@daltontomich.com>; Wittenwyler, Mike <mwittenw@gklaw.com>; Knapp, Bruce <BKnapp@gklaw.com>

Subject: RE: EHS -- revised key word search [GK-Active.FID3018047]

[EXTERNAL] This message originated from outside your domain.

Jonathon,

In responding to your email late last night, your criticism of our searching is unwarranted. We have run every search you have requested (I believe 8 so far) and the two alternatives we've suggested to try to limit the search have been met with scorn.

We will run the three new searches you request below (as revised by your second email) and let you know the results.

As for the parties' production, the City did not produce tiff format images but searchable pdfs that were bate stamped. My statement in my declaration that you have not produced load files is a true statement as you have confirmed. The statement was not meant to suggest that you were required to or anything nefarious by Edgewood but only that we could not try to filter documents in other ways that might reduce the count. I did not suggest or imply that the City had produced load files but had you asked for such and were amenable to do the same, I would have provided those.

In terms of load files, we did make a request for that as it relates to the Wood Communication and Vandewalle documents, which were documents that we subpoenaed but that you reviewed first for privilege. In producing those, you gave us pdfs without metadata for us to be able to organize those chronologically. We believe that likely received native files and because of that, you can review those chronologically but we cannot. Despite asking twice for a load file for those documents, you did not provide one.

The City's position remains the same because we haven't been able to reach agreement on any proposal but we are continuing to work with you to try to reach agreement.



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From: Ingrisano, Jonathan <jingrisa@gklaw.com>

Sent: Tuesday, September 27, 2022 9:36 AM

To: Sarah A. Zylstra <szylstra@boardmanclark.com>

Cc: Tanner G. Jean-Louis <TJeanLouis@boardmanclark.com>; Noel Sterett <nsterett@daltontomich.com>; Wittenwyler, Mike <mwittenw@gklaw.com>; Knapp, Bruce <BKnapp@gklaw.com>

Subject: RE: EHS -- revised key word search [GK-Active.FID3018047]

Sarah:

I have to put my submission to bed by 10:30 this morning. If I don't hear from you before then, I will assume that your position remains the same, at least for the time being.

As I understand it, your proposed search criteria remains the same as you expressed on September 14. If the City has revised its position from the "to/from" domain requirements and the "light* permit" and "electrical permit" criteria you expressed that day, please let me know.

My proposal is set forth in my email below from last night (and includes the 12 month scope and 9 custodians described earlier). The only addition is that I would include "Edgewood Dr*" as a MINUS term and revise #2 to be "Edgewood* permit" to capture any references to the possessive.

Jonathan

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